

REMARKS:

In the outstanding Final Office Action, the Examiner rejected claims 97, 98 and 100. No new matter is presented. Claims 97, 98 and 100 are amended herein, and claims 78, 82-84, 86-89, 94-96 and 99 are cancelled without prejudice. Claims 1-77, 79-81, 92 and 93 remain cancelled. A Request for Continued Examination is submitted.

Thus, claims 97, 98 and 100 are pending and under consideration. The rejections are traversed below.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 97, 98 and 100 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,056,019 (Schultz) in view of U.S. Patent No. 4,882,675 (Nichtberger).

Schultz does not teach or suggest managing point(s) including "identifying a customer" and "sending balance point of said customer to said terminal **in response to identification of the customer** based on said customer identification information and **prior to a transaction made using said terminal in an event that said identification is succeeded**" (emphasis added), as recited in claims 97 and 98.

The invention of claim 100 includes, "a point management unit... calculating a balance point of said customer according to transactions performed by said customer" and "a point sending unit to send said balance point of said customer to a terminal **in response to identification of the customer** based on said customer identification information and, **prior to said transaction made using said terminal**" (emphasis added). As such, in the event that the customer is identified, the invention of claim 100 sends balance point of the customer "prior to a transaction made" and "in response to identification of the customer."

Instead, Schultz determines rewards based on the status report that is executed at a set time prescribed by the central system (see, col. 7, lines 60-67). That is, as the Examiner mentions on page 3 of the outstanding Office Action, Schultz central management system determines the customer's earned rewards which is based on the status report.

Specifically, when a consumer buys products, the in-store computer system records purchases to the customer's file (if any reward items are purchased), and transfers the purchase records from the customer files in-store to the central management firm which independent of

the customer prepares a status report to be sent to the consumer (see, Fig. 2 including corresponding text).

Schultz merely discusses transfer of all the purchase records of each business day from the participating retail store to a program management computer system (see, col. 7, lines 45-47), which are then periodically compared with offer records to determine which purchases correspond to an available purchase reward offer (see, col. 7, lines 60-64). Such determination, however, is not responsive to the customer's request.

On page 3 of the outstanding Office Action, the Examiner indicated that it would be inherent to one of ordinary skill in the art that if the in-store computer system had access to the frequent shopper program and reward files, the customer would be able to obtain the reward balance and any reward certificates prior to the transaction. Applicants disagree and respectfully request that the Examiner provide rationale tending to show inherency.

Applicants respectfully submit that inherency has not been established since the claimed management of points is not necessarily present in Shultz and would not be so recognized by persons of ordinary skill as such. The mere fact that a certain thing may result from a given set of circumstances is not sufficient (see, MPEP 2112).

Thus, it is respectfully submitted that the claimed invention patentably distinguishes over Schultz. Further, as Nichtberger merely discloses recording items purchased by the customer and matching coupons selected and the items purchased, Nichtberger does not cure the deficiencies of Schultz regarding the claimed invention.

Nichtberger is directed to presenting electronic display of coupons valid for use in a particular store. When a customer presents the coupon at a store checkout in association with a purchase, the customer is identified as one who selected the coupon (see, col. 5, lines 17-25 and col.17, lines 30-38). Meaning, Nichtberger is limited to a checkout system which credits the customer only after the items are purchased.

Nichtberger explicitly states that "[the] receipt number allows the system to match up the customer's selections with his purchases to effect a redemption at checkout time in lieu of the special card" (see, col. 14, lines 4-8). Meaning, Nichtberger only discusses requesting corresponding list of coupon selections from the CDR unit when the customer is at the checkout counter and in association with the purchased products (see, col. 17, lines 49-56).

Schultz and Nichtberger, alone or in combination, do not teach or suggest the above-discussed features of the claimed invention.

Therefore, withdrawal of the rejection is respectfully requested.

CONCLUSION:

There being no further outstanding objections or rejections, it is respectfully submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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